

INTERNAL REVENUE SERVICE
NATIONAL OFFICE TECHNICAL ADVICE MEMORANDUM

April 30, 2004

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CASE-MIS No.: TAM-162845-03, CC:PSI:B8

District Director

Taxpayer's Name:
Taxpayer's Address:

Taxpayer's Identification No
Years Involved:
Date of Conference: None

LEGEND:

Taxpayer =
X vehicle =

ISSUE(S):

For purposes of the excise tax imposed by § 4051(a)(1) of the Internal Revenue Code on the first retail sale of truck semitrailer bodies and chassis, may Taxpayer exclude from its taxable sale price of the X vehicle described below that portion of the sale price attributable to the aluminum extrusion assembly?

CONCLUSION(S):

Taxpayer may not exclude from the taxable sale price of the X vehicle that portion of the sale price attributable to the aluminum extrusion assembly.

FACTS:

Taxpayer manufactures and sells at retail the X vehicle. The X vehicle is a semitrailer designed to transport bulk feed products. The tank body of the X vehicle is exempt from the tax imposed by § 4051 by virtue of the exemption provided by § 4053(2) for any body primarily designed to haul feed, seed, or fertilizer to and on farms.

Integrated into the lower portion of the tank body is a component referred to by Taxpayer as an aluminum extrusion assembly (the Assembly). The Assembly forms the floor of the tank and houses a chain bottom floor unloading system. The running gear assembly (axles, springs, hubs, wheels, tires, brakes, suspension hangers, and other suspension components) is bolted to the Assembly by suspension hangers. The Assembly consists of two parallel aluminum beams (running the length of the semitrailer) that are attached by welded crossmember channels laid perpendicular to the beams.

Taxpayer argues that the Assembly is not a component of the chassis but rather is a component of the body of the X vehicle and thus should be exempt from excise tax by virtue of the exemption accorded the body under § 4053(2).

LAW AND ANALYSIS:

Section 4051(a)(1) imposes a tax on the first retail sale of certain enumerated articles, including automobile truck semitrailer chassis and bodies.

Section 4053(2) exempts from the tax imposed by § 4051 any body, primarily designed to haul feed, seed, or fertilizer to and on farms.

Section 145.4051-1(a)(2) of the Temporary Regulations under the Highway Revenue Act of 1982 (Pub. L. 97-424) specifies that the tax under § 4051(a)(1) is imposed on a chassis or body only if such chassis or body is sold for use as a component part of a highway vehicle (as defined in § 48.4061(a)-(d) of the regulations).

Section 48.4061(a)-1(d)(1) of the Manufacturers and Retailers Excise Tax Regulations defines "highway vehicle" as any self-propelled vehicle, or any trailer or semitrailer, designed to perform a function of transporting a load over public highways, whether or not also designed to perform other functions.

Section 48.4061(a)-1(d)(2)(ii) provides that a self-propelled vehicle, or a trailer or semitrailer, is not a highway vehicle if it is (A) specially designed for the primary function of transporting a particular type of load other than over the public highway in connection with a construction, manufacturing, processing, farming, mining, drilling, timbering, or other operation similar to any one of the foregoing enumerated operations, and (B) if by reason of such special design, the use of such vehicle to transport such load over the public highways is substantially limited or substantially impaired.

Rev. Rul. 78-8, 1978-1 C.B. 341, concerns a bulk feed self-unloading semitrailer that is of unitized construction; that is, the vehicle does not have a separate chassis. The body of the semitrailer is constructed on a keel assembly to which an unloading mechanism is attached. A kingpin plate and landing gear are welded to the front of the keel assembly. Suspension parts and wheel components, commonly known as

"running gear" are then attached to the rear of the keel assembly. The running gear is constructed on a "building block" principle; that is, certain parts are first welded to the keel assembly and then other parts are added until the running gear is completed. The semitrailer is designed to perform the function of transporting a load over the highway in combination with a taxable tractor and has no special design or features that limit or impair this function. However, the body is primarily designed to haul feed, seed, or fertilizer to and on farms and is exempt under § 4063(a)(2)(B) (the predecessor of § 4053(2)) from the tax imposed by § 4061(a)(1) (the predecessor of § 4051(a)(1)).

The ruling notes that under the principle set forth in Rev. Rul. 70-547, 1970-2 C.B. 264, an undercarriage that is designed to transport a load over the highway in combination with a taxable truck or tractor need not have an identifiable chassis frame in order to be a trailer or semitrailer chassis.

Since the semitrailer described in Rev. Rul. 78-8 is designed to transport a load over public highways and has no special design or features that limit or impair such function, it is a highway vehicle under the regulations. Further, although the semitrailer has no identifiable chassis frame, it has an undercarriage (keel assembly) that performs the transportation function of a chassis. Thus, the ruling holds that the taxable chassis consists of the keel assembly (including framework and sheathing), kingpin plate, landing gear, running gear, and any additional equipment and accessories installed that are related to the basic function or safety of the chassis.

Taxpayer argues that the X vehicle does not have identifiable chassis frames and thus the chassis consists only of the running gear components. Taxpayer believes that in order for the Assembly to be considered a part of the chassis, the Assembly must be permanently attached. Taxpayer notes that, unlike the vehicle described in Rev. Rul. 78-8, the running gear in the X vehicle are bolted rather than welded to the Assembly and the Assembly is easily removed from the structure, allowing for a stand-alone tank. Also unlike the vehicle described in Rev. Rul. 78-8, the X vehicle's running gear is not built on a "building block" principle, as the running gear is the last of the parts added to the X vehicle. Taxpayer also argues that the purpose of the Assembly is to act as the bottom of the feed tank compartment as well as a containment device for the hydraulic discharge system.

Rev. Rul. 78-8 holds that those elements that make up the undercarriage and contribute to the transportation function are a semitrailer chassis. The ruling describes a bulk feed semitrailer equipped with a keel assembly that is similar to the X vehicle's aluminum extrusion assembly except that the X vehicle's running gear is bolted rather than welded to the Assembly. This factor, however, does not change the fact that the Assembly makes up the undercarriage and contributes to the vehicle's transportation function. Also, the fact that the X vehicle is not constructed on the building block principle is not determinative because it is the structure of the finished article that is important and not the process of construction. And although the Assembly acts as the bottom of the tank and also houses the tank's discharge system, the primary function of

the Assembly is to support the body, which is a function of a semitrailer chassis.

CAVEAT(S):

A copy of this technical advice memorandum is to be given to the taxpayer. Section 6110(k)(3) provides that it may not be used or cited as precedent. In accordance with § 6110(c), names, addresses, and other identifying numbers have been deleted.